IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.960 of 2002**

DATE OF DECISION: September 5, 2007

SUBE SINGH GAHLAWAT & ORS. ...PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. K.L. DHINGRA, ADVOCATE FOR THE PETITIONERS.
MR. HARISH RATHEE, SR.DAG, HARYANA.

ASHUTOSH MOHUNTA, J. (ORAL)

The petitioners have prayed for quashing the order dated 15.11.2001 (Annexure P-1) in view of the instructions dated 20.8.1996, of the Finance Department, Haryana which have been circulated by the departmental authorities vide Annexure P-2 & P-3. The petitioners claim grant of 8 and 18 years increments by including the *ad hoc* service rendered by them prior to their regularization.

All the three petitioners were working as Masters in the Haryana Education Department since 1974. The services of all the three petitioners were regularized w.e.f. 1.1.1980. Learned counsel for the petitioner has prayed that the services rendered by the petitioners prior to their regularization be counted for the purposes of grant of 8/18 years increments. The aforementioned relief has been claimed on the basis of instructions (Annexures P-2 & P-3), according to which the State of Haryana has decided that the period of *ad hoc* service which was followed

by regular appointment under the State Government shall be taken into consideration while calculating the prescribed length of service under the scheme for grant of additional increments to Group C & D employees on their completion of 8/18 years of service.

Learned counsel for the petitioner submits that as the services of the petitioners were regularized w.e.f 1.1.1980, therefore, it has to be presumed that they had worked at least for a minimum of 2 years prior to 1.1.1980. Thus, the services rendered by the petitioners w.e.f. 1.1.1978 to 1..1.1980, on *ad hoc* basis be counted for the purposes of grant of increments.

Reply has been filed on behalf of the respondents wherein it has been mentioned that the petitioners have merely worked for a few days in each year from 1974 onwards. Mr. Harish Rathee, Sr. DAG, Haryana has placed reliance on Annexure P-1 to contend that there have been several intermittent breaks of service rendered by the petitioners and hence the *ad hoc* service rendered by them is not liable to be counted for the purposes of grant of increments.

A perusal of Annexure P-2 clearly shows that the State Government made a special scheme for employees to mitigate the frustration amongst them who stood stagnated for years altogether. Thus, as per the scheme, the *ad hoc* service which was followed by regular service was to be counted for the purposes of additional increments on completion of 8/18 years of service. A perusal of the service chart of the petitioners shows that all the three petitioners had work since 1974, as given in Annexure P-1 and there was only intermittent breaks in their continuous service. Thus, breaks are liable to be condoned in view of the instructions

(Annexures P-2 & P-3) and therefore, the petitioners are obviously entitled to the benefits of the aforementioned instructions.

In view of the above, this writ petition is allowed and directions are issued to the respondents to grant increments to the petitioners on their completion of 8/18 years of service by including the *ad hoc* service rendered by them.

September 5, 2007 **(ASHUTOSH MOHUNTA)**
Gulati **JUDGE**